

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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UNITED STATES OF AMERICA,	:	CASE NO. 1:20-cr-00707-1
Plaintiff,	:	ORDER
	:	[Resolving Doc. 400]
v.	:	
RICKY LLOYD SIMMONDS,	:	
Defendant.	:	
	:	

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JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Defendant Ricky Simmonds moves for a sentence reduction under 18 U.S.C. § 3582(c)(2) and U.S. Sentencing Guidelines Amendment 821, Part B.<sup>1</sup> The Federal Public Defender filed a notice of intent not to supplement Simmonds' motion.<sup>2</sup> The government opposed Simmonds' motion.<sup>3</sup>

Amendment 821, Part B decreases the total offense level for certain defendants who received zero criminal history points at sentencing.<sup>4</sup>

Although Amendment 821 applies retroactively, a district court may not modify a defendant's sentence based on a retroactive amendment unless the defendant is eligible under U.S. Sentencing Guidelines § 1B1.10.<sup>5</sup> And under § 1B1.10(a)(2)(B), a defendant is not eligible if applying the retroactive amendment does not lower the defendant's guideline range.<sup>6</sup>

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<sup>1</sup> Doc. 400.

<sup>2</sup> Doc. 401.

<sup>3</sup> Doc. 402.

<sup>4</sup> Amendment 821, <https://www.ussc.gov/guidelines/amendment/821>.

<sup>5</sup> *Dillon v. United States*, 560 U.S. 817, 827 (2010).

<sup>6</sup> U.S.S.G. § 1B1.10(a)(2)(B).

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Here, Defendant Simmonds received two criminal history points.<sup>7</sup> Because Simmonds received criminal history points, Amendment 821, Part B does not apply to Simmonds.

For this reason, Defendant Simmonds is not eligible for a sentence reduction under Amendment 821 and § 3582(c)(2). The Court **DENIES** the sentence reduction motion.

IT IS SO ORDERED.

Dated: April 22, 2024

*s/ James S. Gwin*  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>7</sup> Doc. 290 at ¶ 79.